

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN AT DETROIT

In Re: Derrick J. Mastie

Case No. 14-51066-mbm  
Chapter 13  
Hon. Marci B. McIvor

Debtor,  
\_\_\_\_\_ /

**CREDITOR CAPITAL ONE AUTO FINANCE'S  
OBJECTION TO DEBTORS' CHAPTER 13 PLAN**

NOW COMES Creditor, Capital One Auto Finance, by and through its attorneys, Marselis & Berman, P.C., objects to the Debtor's Chapter 13 Plan for the following reasons:

1. That Creditor, Capital One Auto Finance, is the holder of a Retail Installment Agreement and a perfected security interest in the 2013 FORD FOCUS, VIN: 1FADP3F23DL361644.
2. There remains due and owing on thee referenced in paragraph one hereof, the sum of \$20,626.99 plus interest which does not reflect attorney fees and costs associated with this Bankruptcy Filing.
3. That the above-referenced Retail Installment Agreement was entered on June 29, 2013 which was within 910 days from the date that the Debtor's Chapter 13 Bankruptcy Petition was filed.
4. That pursuant to Debtor's Chapter 13 Plan, Debtor Proposes to "Crammed Down" or "Modify" the above-referenced vehicle in the amount of \$17,000.00 at 5.0% interest.
5. That pursuant to 11 U.S.C. §1325(a)(9), when a creditor that holds a claim that is secured by a purchase money security interest which was purchased for personal

- use by the Debtor and the debt was incurred within 910 days from the date of filing, such claim cannot be subsequently modified or otherwise “cram down” .
6. That pursuant to §1325(a)(9), the Debtor may not “cram down” the claim of Capital One Auto Finance since the Retail Installment Agreement was entered within 910 days from the date of the filing date of the Debtor's Chapter 13 Petition.
  7. That in addition, the interest rate as proposed does not adequately protect the Creditor and the Creditor requests that any interest rate that is proposed should correspond to the interest rate approved in “In Re Till”. *In re Till*, 301 F.3d 583, 591 (2002).

WHEREFORE, Creditor pray this Honorable Court to grant the relief requested and not confirm the proposed Plan until these objections are resolved.

Date: July 16, 2014

Respectfully submitted,  
Marselis & Berman P.C.

/s/ Panayiotis Marselis  
Panayiotis Marselis P-66572  
Marselis & Berman, P.C.  
8300 Hall Road, Ste 200  
Utica, MI 48317  
Telephone: 586.323-5939  
Fax: 586.323-7939  
Email: pmarselis@mblawcenter.com

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**CERTIFICATE OF SERVICE**

I hereby do certify that a true and correct copy of the Creditors Objection to Confirmation of the Chapter 13 Plan was sent to the following:

Thomas Paluchniak, Debtor's Attorney

David Wm Ruskin, Chapter 13 Trustee

on this, the 16th day of July 2014, by ECF/CM electronic notification.

Dated: July 16, 2014

/s/ Panayiotis Marselis

Panayiotis Marselis P-66572

Marselis & Berman, P.C.

8300 Hall Road, Ste 200

Utica, MI 48317

Telephone: 586.323-5939

Fax: 586.323-7939

Email: pmarselis@mblawcenter.com